

**IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD**

(Special Original Jurisdiction)

THURSDAY, THE EIGHTEENTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION No. 21047 of 2004

Between:

- 1 Shaik Mohd.Rasheed, s/o Ismail Saheb
- 2 R.Shahin Begum, w/o Mohd.Rasheed ... PETITIONERS

AND

- 1 The District Collector, Nellore District, Nellore.
- 2 The Revenue Divisional Officer, Nellore, Nellore District.
- 3 The Mandal Revenue Officer, Podalakur Mandal, Podalakur, Nellore District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court will be pleased to issue an order, direction or writ more particularly one in the nature of writ of mandamus declaring the action of the respondents in seeking to dispossess the petitioners from the lands covered by Survey Nos.637/1, 633/3, 633/1, 638/3, 638/2, 638/1, 637/2, 633/7, 633/5 and 633/2 situated in Marupuru Village, Podalakur Mandal, Nellore district covered by the registered sale deeds dated 6-9-2003 obtained by the petitioners 1 and 2 each, as illegal, arbitrary and unconstitutional and in violation of Articles 14 and 21 of Constitution of India, provisions of A.P. Assigned Lands (Prohibition of Transfer) Act, 1977 and the rules framed thereunder and consequently direct the respondents not to initiate any action to dispossess the petitioners from the above said lands except by due process of law.

Counsel for the Petitioners: Mr.M.VENKATA NARAYANA

Counsel for Respondents 1 to 3: G.P. FOR REVENUE

The Court at the admission stage, made the following :

ORDER:

Heard the learned counsel for petitioners and the learned Government Pleader for respondents and both of them agreed for disposal of the writ petition at the stage of admission.

The present writ petition is filed questioning the show cause notice issued by the third respondent dated .3.2004 in respect of lands covered by Survey Nos.637/1, 633/3, 633/1, 638/3, 638/2, 638/1, 637/2, 633/7, 633/5 and 633/2 of Marupuru Village, Podalakur Mandal, Nellore district.

The petitioners claim that the subject land is a patta land and they are owners of the said land having purchased the same under registered sale deed dated 6.9.2003 and cultivating the same. It is stated that the said land is not covered by A.P. Assigned Lands (Prohibition of Transfers) Act, 1977.

While the matter stood thus, third respondent issued a show cause notice dated .3.2004 to the petitioners stating that the subject land was recorded as D-Form patta lands/CJFS land in revenue records and that the petitioners had violated the regulations and trespassed upon the said land and cultivating the same, as such called upon to explain why criminal prosecution should not be launched against them. On receipt of the said show cause notice, petitioners sent an explanation dated 2.8.2004 to the third respondent through their Advocate.

The learned counsel for petitioners submits that the respondents without following due procedure, and without passing final orders, are trying to take possession of the property on the ground that petitioners have contravened the provisions of A.P. Assigned Lands (Prohibition and Transfers) Act, 1977. It is stated that earlier when the petitioners filed W.P.No.7371 of 2004 pursuant to a show cause notice, this Court disposed of the said writ petition by its order dated 19.4.2004 granting two weeks time to the petitioners to file explanation to the said show cause notice and observed that on filing such explanation, the respondent is at liberty to consider the same and pass appropriate orders.

In the circumstances, I hold that the respondents, without following due process of law and without passing final orders pursuant to the show cause notice and communicating the same to the petitioners, shall not evict the petitioners from the land in question. If any such orders are already passed, the same shall be communicated to the petitioners and on receiving the same, they may avail the remedy as available to them under law.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

A.GOPAL REDDY, J

Date: 18.11.2004

NOTE:

Operative portion by wire at party's costs.

B/o

DA

To

- 1 The District Collector, Nellore District, Nellore.
- 2 The Revenue Divisional Officer, Nellore, Nellore District.
- 3 The Mandal Revenue Officer, Podalakur Mandal, Podalakur, Nellore District.
- 4 Two CCs to the G.P. for Revenue High Court Buildings, Hyderabad (OUT).
- 5 Two CD copies.